

the TSMS. This must include audit records, non-conformity reports and corrective actions, auditor qualifications, auditor training, and other records as considered necessary.

(f) *Identify and meet training needs.* The owner or operator must establish and maintain documented procedures for identifying training needs and providing training.

(g) *Ensure adequate resources.* Identify adequate resources and procedures necessary to comply with the TSMS.

#### § 138.215 Functional requirements of a TSMS.

The functional requirements of a TSMS include:

(a) Policies and procedures to provide direction for the safe operation of towing vessels and protection of the marine environment in compliance with applicable U.S. law, including the Code of Federal Regulations, and, if on an international voyage, applicable international conventions to which the United States is a party;

(b) Defined levels of authority and lines of communication between shore-side and vessel personnel;

(c) Procedures for reporting accidents and non-conformities;

(d) Procedures to prepare for and respond to emergency situations by shoreside and vessel personnel;

(e) Procedures for verification of vessel compliance with this subchapter;

(f) Procedures for internal auditing of the TSMS, including shoreside and vessel operations;

(g) Procedures for external audits;

(h) Procedures for management review of internal and external audit reports and correction of non-conformities; and

(i) Procedures to evaluate recommendations made by management and other personnel.

#### § 138.220 TSMS elements.

The TSMS must include the elements listed in paragraphs (a) through (d) of this section. If an element listed is not applicable to an owner or managing operator, appropriate justification must be documented and is subject to acceptance by the TPO.

(a) *Administration and management organization.* A policy must be in place

that outlines the TSMS culture and how management intends to ensure compliance with this subpart. Supporting this policy, the following procedures and documentation must be included:

(1) *Management organization*—(i) *Responsibilities.* The management organization, authority, and responsibilities of individuals must be documented.

(ii) *Designated person.* Each owner or managing operator must designate in writing the shoreside person(s) responsible for ensuring the TSMS is implemented and continuously functions throughout management and the fleet. They must also designate the shoreside person(s) responsible for ensuring that the vessels are properly maintained and in operable condition, including those responsible for emergency assistance to each towing vessel.

(iii) *Master authority.* Each owner or managing operator must define the scope of the master's authority. The master's authority must provide for the ability to make final determinations on safe operations of the towing vessel. Specifically, it must provide the authority for the master to cease operation if an unsafe condition exists.

(2) *Audits*—(i) *Procedures for conducting internal and external audits.* The TSMS must contain procedures for audits in accordance with §§ 138.310 and 138.315.

(ii) *Procedures for identifying and correcting non-conformities.* The TSMS must contain procedures for any person to report non-conformities. The procedures must describe how an initial report should be made and the actions taken to follow-up and ensure appropriate resolution.

(b) *Personnel.* Policies must be in place that cover the owner or managing operator's approach to managing personnel, including, but not limited to, employment, training, and health and safety of personnel. Supporting these policies, the following procedures and documentation must be included:

(1) *Employment procedures.* The TSMS must contain procedures related to the employment of individuals. Procedures must be in place to ensure adequate qualifications of personnel, to include background checks, compliance with drug and alcohol standards, and that

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personnel are able to perform required tasks.

(2) *Training of personnel.* The TSMS must contain a policy related to the training of personnel, including:

- (i) New-hire orientation;
- (ii) Duties associated with the execution of the TSMS;
- (iii) Execution of operational duties;
- (iv) Execution of emergency procedures;
- (v) Occupational health;
- (vi) Crew safety; and
- (vii) Training required by this Subchapter.

(c) *Verification of vessel compliance.* Policies must be in place that cover the owner or managing operator's approach for ensuring vessel compliance, including, but not limited to, policies on maintenance and survey, safety, the environment, security, and emergency preparedness. Supporting these policies, the following procedures and documentation must be included:

(1) *Maintenance and survey.* Procedures outlining the owner or managing operator's survey regime must specify all maintenance, examination, and survey requirements, including the minimum qualifications of persons assigned to carry out required surveys the owner or managing operator is using the internal examination program. Applicable documentation must be maintained for all activities for a period of 5 years.

(2) *Safety, environment, and security.* Procedures must be in place to ensure safety of property, the environment, and personnel. This must include procedures to ensure the selection of the appropriate vessel, including adequate maneuverability and horsepower, appropriate rigging and towing gear, proper management of the navigational watch, and compliance with applicable security measures.

(d) *Compliance with this subchapter.* Procedures and documentation must be in place to ensure that each towing vessel complies with the operational, equipment, and personnel requirements of this subchapter.

### § 138.225 Existing safety management systems (SMSs).

(a) A safety management system (SMS) which is fully compliant with

the International Safety Management (ISM) Code requirements, implemented in 33 CFR part 96, will be deemed in compliance with TSMS-related requirements in this subchapter.

(b) Other existing SMSs may be considered for acceptance as meeting the TSMS requirements of this part. The Coast Guard may:

- (1) Accept such system in full;
- (2) Require modifications to the system as a condition of acceptance; or
- (3) Reject the system.

(c) An owner or managing operator who seeks to meet TSMS requirements using provisions in paragraph (a) or (b) of this section must submit documentation to the Coast Guard based on the initial audit and one full audit cycle of at least 3 years.

(d) The Coast Guard may elect to inspect equipment and records, including:

- (1) Contents of the SMS;
- (2) Objective evidence of internal and external audits;
- (3) Objective evidence that non-conformities were identified and corrected; and
- (4) Objective evidence of vessel compliance with applicable regulations.

## Subpart C—Documenting Compliance

### § 138.305 TSMS certificate.

(a) The owner or managing operator will be issued a TSMS certificate by a TPO when his or her organization is deemed in compliance with the TSMS requirements. It should be kept on file at the owner or managing operator's shoreside office and available for review, at the request of the Coast Guard.

(b) A TSMS certificate is valid for 5 years from the date of issue, unless suspended, revoked or rescinded as provided in paragraphs (d) and (e) of this section.

(c) The vessel owner or managing operator must maintain a list of vessels currently covered by each TSMS certificate and must provide it to the Coast Guard upon request.

(d) A TSMS certificate may be suspended or revoked by the Coast Guard at any time for non-compliance with the requirements of this part.